

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MONTANA
3 MISSOULA DIVISION

4

5 CAUSE NOS. CV-98-141-M-DWM
6 CV-99-103-M-DWM

6 THOMAS F. MURRAY and HELEN H. }
7 MURRAY, husband and wife, }
8 Plaintiffs, }
9 vs. }
10 W.R. GRACE & CO.-CONN., a }
11 Connecticut corporation, et al., }
12 Defendant. }

13

14 VIDEO DEPOSITION
15 OF
16 THOMAS F. MURRAY

17

18

19 Taken at the Residence of
20 Thomas F. and Helen H. Murray
21 728 South Third West
22 Missoula, Montana
23 Monday, October 18, 1999
24 9:00 a.m.

22

23

24

25 Reported by Jolene Asa, RPR, and Notary Public
 for the State of Montana, Flathead County

1 A In '92? My arithmetic is not very good
2 today. Subtract 16 from 92, and you've got it.

3 Q 76? Does that sounds right?

4 A Yeah. That's right.

5 Q Did you like being a lawyer?

6 A Yeah. Yeah.

7 Q And you and your family lived in Missoula
8 that whole time that you practiced?

9 A Except for Superior.

10 Q I'd like to talk specifically now about
11 the time that you spent in Libby working at
12 Zonolite. Can you tell us when you first started at
13 Zonolite?

14 A When did I first --

15 Q Yes.

16 A Yeah. It was the summer of 1978, I think.

17 Q Do you mean '78?

18 A No. Not '78. 19 -- Cripes.. '48. Right?

19 Q When you were in law school?

20 A Yes.

21 Q What was your first job at Zonolite?

22 A Sweeping in the mill.

23 Q Do you remember who your supervisor was?

24 A I don't remember.

25 Q Do you remember the kind of work that you

1 did as a sweeper in the mill?

2 A Well, they give me a push broom, and I
3 pushed the dust, put it into a container and went
4 back sweeping again.

5 Q Was the mill running when you were a
6 sweeper?

7 A Oh, yes.

8 Q Can you describe the conditions of the
9 work in the mill?

10 A Very, very dusty. Very dusty.

11 Q Were there any fans in the mill when you
12 worked there?

13 A Fans?

14 Q Yes.

15 A Not that I know of.

16 Q Did you have any other jobs besides
17 sweeping in the mill that first summer?

18 A Construction. I worked on the
19 construction crew.

20 Q Can you describe what that was like?

21 A Well, we did a lot of constructing of the
22 mill itself. I remember that, and I remember --

23 Q Was that work in the mill?

24 A Yes.

25 Q Was the mill running at that time?

1 A Yes. Yes. Then I got some overtime work
2 sacking raw ore, and my job was to -- This was
3 overtime work where the mill was not running, and my
4 job was to hit the thing to shut off the ore going
5 into the sack, and I bruised my hand. I remember
6 that.

7 Q That was that first summer?

8 A I think so.

9 Q Did you work in any other places around
10 the Zonolite facility that first summer?

11 A I think that I worked where they dumped
12 the ore, from where the trucks dumped it into a bin
13 up on the hill, where they were mining it.

14 Q I'm going to show you a photo here, Tom,
15 and see if this looks like where -- Okay. Do you
16 recognize that?

17 A Yes. Yes.

18 Q Can you describe that photo? ..

19 A Yeah. This is the truck that was loaded
20 with ore. It's dumping into a pit, and I was in
21 this overhead place on that side so that the ore
22 would come in here, and I was right -- sitting down
23 right next to it.

24 Q Were you sitting in a building?

25 A Yes.

1 A Real close. I was sitting right here.

2 Q Can you describe the conditions?

3 A It was dusty, real dusty. When they
4 dumped the ore in, it was just -- all the dust from
5 the ore would come in too.

6 Q And was this for the whole shift that you
7 were -- the trucks were dumping?

8 A Yeah. Yeah.

9 Q Did you work those same type of jobs the
10 second summer?

11 A You know, I'm not sure. I just can't
12 remember for sure if I -- I think they did, but -- I
13 think I did, but I don't remember for sure.

14 Q Did you work in the mill again?

15 A I think so.

16 Q Was there a time that you worked any other
17 jobs besides in the mill or with the construction
18 department?

19 A Yeah. I worked in the garage.

20 Q How is it that you got to work in the
21 garage?

22 A I accidentally dropped a tool on the head
23 guy of the construction company.

24 Q Did you hit him?

25 A No. I missed him, but he thought that I

1 did it deliberately, I think, and he fired me, and
2 the next day the head guys called me in and asked me
3 about it. They said, Was that a difference in
4 personality?

5 I said, There sure was.

6 They said, Well, we'll put you in the
7 garage, and so I worked in the garage.

8 Q What kind of work did you do in the
9 garage?

10 A Welding and -- Mostly welding, I think.

11 Q Was the garage a dusty place to work?

12 A No. Not really.

13 Q How would you compare the dust in the
14 garage to the dust in the mill?

15 A Oh, gosh. The mill was really dusty.

16 Q How long did you work in the garage?

17 A Until I went back to law school.

18 Q When you were hired at Zonolite, did the
19 company warn you that exposure to the dust could be
20 harmful to you?

21 A No.

22 Q When you were hired at Zonolite, did the
23 company warn you that asbestos could be harmful to
24 you?

25 A No.

1 Q When you were hired at Zonolite, did any
2 of the workers warn you about the dust or asbestos?

3 A No.

4 Q Did you ever see any signs when you worked
5 there about dust or asbestos?

6 A No.

7 Q Did your supervisors ever warn you in
8 safety meetings or at other times about the dust?

9 A No.

10 Q Do you ever remember other workers talking
11 about the dust?

12 A No. No.

13 Q Were you aware that asbestos was present
14 while you were working at Zonolite?

15 A No.

16 Q Did you understand what you were working
17 with?

18 A What do you mean?

19 Q What was in the ore?

20 A Zonolite.

21 Q Were you aware when you worked at Zonolite
22 that other workers were developing illnesses from
23 the dust?

24 A No. No.

25 Q Did you belong to the union when you

1 worked at Zonolite?

2 A No, I didn't. They had a special deal for
3 college people that didn't have to join the union.

4 Q Were you aware when you worked at Zonolite
5 of any inspections at the facility regarding the
6 dust?

7 A No.

8 Q When did you eventually learn that you had
9 worked around asbestos?

10 A In 1997 I went to the doctor for a
11 physical checkup, and it was the first time that
12 anybody had ever tested my oxygen with a little
13 device where you stick your finger in there, and it
14 tells you what your oxygen is. And if you've got
15 good oxygen, you're up around 100. If you've got
16 bad, like I had -- It was in the 60s.

17 Q How did you learn that you'd worked around
18 asbestos from that?

19 A I was put in the hospital, and
20 Dr. Beckmeyer eliminated the dust from farming that
21 I had done as the cause. He eliminated the smoking
22 that I used to do and said with no question about it
23 it was asbestos fibrosis.

24 Q Do you recall when you learned that other
25 workers from Zonolite were becoming sick from the

1 dust?

2 A I don't think I ever learned that.

3 Q Did you learn after you were diagnosed?

4 A Yes.

5 Q When you went to work at Zonolite, did you
6 receive any training or warnings about respirators?

7 A No.

8 Q Was a respirator ever made available to
9 you during the time you worked at Zonolite?

10 A No. No.

11 Q Did you ever see any of the other workers
12 at Zonolite with a respirator?

13 A No.

14 Q How about any supervisors?

15 A No.

16 Q Did any of the other workers or
17 supervisors ever talk about respirators?

18 A ... No.

19 Q What did you do when you were working in
20 dusty conditions to help with the dust?

21 A Oh, you mean -- Once in awhile I'd put a
22 handkerchief over -- I'd hold a handkerchief over
23 here.

24 Q Did one of the supervisors or other
25 workers tell you to do that?

1 Q Did you ever talk with any of the other
2 workers at other times about the dust?

3 A I don't think I ever talked with anybody
4 about the dust.

5 Q Did you smoke when you worked at Zonolite?

6 A I think I did.

7 Q Did the company ever warn you about the
8 dangers of smoking during the time that you worked
9 there?

10 A No. No.

11 Q Did the company ever warn you after you
12 left Zonolite about the dangers of smoking?

13 A No.

14 Q After you left Zonolite at the end of that
15 second summer, did you ever hear from Zonolite
16 again?

17 A Yes. They sent me a letter saying they
18 wanted me to come up at their expense, and they
19 wanted to check me.

20 Q Do you remember when that was?

21 A I think it was in '83 or '84 or something
22 like that.

23 Q And did you go?

24 A Yes, I did.

25 Q Do you remember why you decided to go?

1 A Well, it was a free trip. We went to
2 Libby often to see our relatives up there. It was a
3 free trip to go up there, and so I went.

4 Q What happened when you got to Libby?

5 A Some fellow -- I don't even know who he
6 was -- had machines that he tested my breathing, and
7 they took a -- I think they took a chest x-ray also.

8 Q Did you ever receive an x-ray or that
9 breathing test when you worked at Zonolite?

10 A When I worked there?

11 Q Yes.

12 A No.

13 Q Did the officials who were conducting the
14 test in 1983, when you went to Libby -- Did they
15 tell you the results of your tests?

16 A No. They told me that it was going to be
17 sent to, I think it was, McGill University in
18 Canada.

19 Q Did they tell you whether they were doing
20 other similar exams on other workers?

21 A I don't remember.

22 Q Did the testing officials ever tell you
23 the reason that they were conducting those exams?

24 A It seemed to me that they were emphasizing
25 smoking.

1 Q Had you been experiencing breathing
2 problems before you went to Libby on that trip?

3 A Oh, yes.

4 Q Did you tell those officials about it,
5 about your breathing problems?

6 A I don't -- I don't remember.

7 Q Did you tell the breathing -- the
8 officials that were doing the examinations that you
9 smoked?

10 A Oh, yes.

11 Q What was their response to that?

12 A I don't remember that.

13 Q Did the officials warn you at that time
14 that smoking was dangerous for you?

15 A I don't -- I don't think so. I don't
16 remember.

17 Q Were you ever made aware of the results of
18 that study?

19 A I don't think so. I don't think so.

20 Q Did the company or the officials doing the
21 testing ever tell you that they were doing a study
22 on asbestos exposure?

23 A No.

24 Q When did you first learn that you'd been
25 exposed to asbestos?

1 she said this is -- an awful lot of people --

2 MR. MacDONALD: Object as to hearsay.

3 BY MR. LACEY:

4 Q Have you ever been exposed to asbestos in
5 any other job?

6 A Any other job?

7 Q Yes. Other than Zonolite.

8 A Not that I know of.

9 Q How often do you see Dr. Beckmeyer now?

10 A Once a month.

11 Q What treatment has Dr. Beckmeyer given
12 you?

13 A Well, I take four breathing treatments a
14 day down on that machine down there, and I take two
15 other breathing treatments, one in the morning and
16 one in the evening.

17 Q Are you on oxygen?

18. A 24 hours a day.

19 Q When did you first go on oxygen?

20 A In the hospital, when they discovered what
21 was wrong with me.

22 Q Do you remember when that was
23 approximately?

24 A It was in March 1947.

1 A I mean, '97.

2 Q Okay. Since you went on oxygen, have you
3 ever not used it for a period?

4 A No. I did one time wake up, and I didn't
5 have any oxygen, and I was feeling kind of funny,
6 and I got up, and I found out that we had a power
7 failure, and the machine had shut off. So I went
8 up, and I got it started again.

9 Q But it woke you up because you didn't have
10 the oxygen going?

11 A Apparently. Apparently, yeah. Now
12 it's -- Right now I'm taking oxygen, and I've got --
13 They changed the machine, and it's plugged it now.

14 Q Does the oxygen help you?

15 A I imagine. I've been on it 24 hours a
16 day.

17 Q Has Dr. Beckmeyer prescribed other
18 medication for you?

19 A Well, yes. That breathing treatment I
20 told you about down there and the other ones that I
21 take two puffs a day -- two in the morning and two
22 at night.

23 Q You mentioned that you were on a steroid
24 before.

25 A You mean the other medications? Oh, yeah.

1 Q Can you describe how it feels when you
2 experience shortness of breath?

3 A Pardon?

4 Q Can you describe how it feels when you
5 experience shortness of breath?

6 A Well, it doesn't feel very good. I'll
7 tell you that.

8 Q Can you describe how it feels, you know,
9 when you don't have the energy that you used to?

10 A Well, it's hard to describe, really. You
11 have to sit down until you can breathe. I'm kind of
12 breathing normally right now, I think. Otherwise,
13 I'm -- (Witness indicated) -- puffing and having a
14 heck of a time getting my breath back.

15 Q What kinds of activity can get you puffing
16 like that?

17 A Just any little bit of activity. Just any
18 little bit of activity.

19 Q Has your condition gotten worse in the
20 last year or two?

21 A I think it has.

22 Q Have the doctors suggested that it's
23 getting worse?

24 A Well, I don't think he talks about that
25 much anymore, since we discussed it before.

1 Q Are there daily activities that your
2 breathing prevents you from doing?

3 A Oh, yes. I can't do any yard -- Well, I
4 can't do anything, really.

5 Q What type of stuff that you try to do that
6 you notice right now your breathing really
7 bothers -- really prohibits?

8 A Just taking a light sack of newspapers or
9 something out to the garbage pail is a no-no.

10 Q You can't do that?

11 A Huh-uh.

12 Q Do you ever try and run errands?

13 A I go to the grocery store, and I get a
14 cart, and, of course, I take my portable oxygen with
15 me, and I take my time in the grocery store filling
16 my cart. Then when I check out, the people in the
17 store take my cart and put the groceries in my car,
18 and then when I get home, either Helen or the
19 grandchildren or whoever takes the groceries from
20 the car into the house.

21 Q Do you try to bring in groceries
22 sometimes?

23 A Yes, and Dr. Beckmeyer told me to quit
24 that because -- He said the worst thing you can do
25 is to -- with my lung problem is to carry something

1 down here. It puts a lot of pressure up here.

2 Q You mentioned yard work. Was there yard
3 work that you try to do now?

4 A Oh, yeah. Just -- When I first noticed
5 the yard work getting terrible is, I'd try to mow
6 the lawn and mow about ten minutes, and I'd have to
7 sit down.

8 Q And when was that?

9 A That was about three or four years ago,
10 something like that.

11 Q What do you do for yard work now?

12 A Hire it.

13 Q Do you ever experience coughing problems?

14 A A little bit, yeah.

15 Q Can you describe when that happens?

16 A Once in awhile, when I'm leaning back, all
17 of a sudden I get something in this area in my
18 throat, and I cough and cough, and then I sneeze and
19 sneeze.

20 Q How has being on the oxygen affected your
21 life?

22 A Well, since I've been on oxygen, I
23 practically do nothing.

24 Q Is there stuff that you used to be able to
25 do that you can't do now because you're on oxygen?

1 A Oh, yeah. Just a lot of things.

2 Q What type of things?

3 A Well, for instance, the portable oxygen is
4 good for maybe two hours, so I can't go do things
5 that take over two hours, like anything that takes
6 over two hours.

7 Q What type of things did you used to do
8 that would take --

9 A Sporting events primarily.

10 Q How about driving? Does driving --

11 A Oh, yeah. We used to do a lot of driving
12 to -- up the Bitterroots and up to Polson, used to
13 drive to Libby a lot.

14 Q Do you get to Libby anymore?

15 A No. I haven't been to Libby since 1946.

16 Q 1946?

17 A Or '96.

18 Q Are there times that you would have liked
19 to have gone to Libby recently?

20 A Oh, yes. You bet. Yeah.

21 Q Were there any events in the last year
22 that you can think of that, if you hadn't been on
23 oxygen, you'd have gone to Libby for?

24 A Oh, yeah.

25 Q Did you used to like to travel a lot?